

**MINUTES**  
**YORK COUNTY PLANNING COMMISSION**

Regular Meeting  
York Hall, 301 Main Street  
April 12, 2006

**MEMBERS**

Christopher A. Abel  
Nicholas F. Barba  
Anne C. H. Conner  
John R. Davis  
Alexander T. Hamilton  
Alfred E. Ptasznik, Jr.  
John W. Staton

**CALL TO ORDER**

Chair Alfred E. Ptasznik, Jr. called the meeting to order at 7:00 PM.

**ROLL CALL**

The roll was called and all members were present. Staff members present were J. Mark Carter, Melanie B. Economou, Timothy C. Cross, Amy Parker, and Earl W. Anderson.

**APPROVAL OF MINUTES**

Mr. Hamilton moved to adopt the minutes of the regular meeting of March 8, 2006 and they were adopted 7:0.

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. UP-677-06, 7-Eleven, Inc.:** Request for a Special Use Permit, pursuant to Section 24.1- 306 of the York County Zoning Ordinance (Category 10, No. 5) to authorize a 2,807-square-foot convenience store with accessory gas pumps (8 fueling stations) on two parcels located at the northwest corner of Hampton Highway (Route 134) and Big Bethel Road (Route 600) and further identified as Assessor's Parcel Nos. 37-81 and 37-90. The property is zoned GB (General Business) and is designated for Limited Business in the Comprehensive Plan.

**Amy Parker, Senior Planner,** summarized the staff report to the Commission dated March 27, 2006, in which the staff recommended denial. Should the Commission wish to recommend approval, however, she noted the staff had attached the draft Resolution No. PC06-3. Ms. Parker also noted that the site is designated for Limited Business uses in the Comprehensive Plan.

**Ms. Parker** stated that the Virginia Department of Transportation would require 300 feet of turn lane for the Hampton Highway entrance; the applicant's plans indicated only 150 feet. **Mr. Hamilton** noted the existence of a 7-Eleven in the vicinity [Big Bethel Road] and asked if it is slated for closing; **Ms. Parker** said that was not part of the application and could best be addressed by the applicant.

The Chair opened the public hearing.

**Mr. Steven Romine**, 7-Eleven, Inc., 3052 Lynndale Drive, Virginia Beach, noted the property in question is currently zoned GB (General Business) which permits a use such as the applicant proposes. He said it would not generate traffic as much as it would intercept traffic already on the roads. The physical characteristics of the site suggest a small, intense development. He discussed buffers and green space and proposed constructing a bus shelter on Swain Lane. Mr. Romine pointed out that the proposal indicates a 20-foot buffer as well as a fence and green space, offering what he considered a better screen than currently exists. The major challenge facing development, he believed, is keeping the entrances safe and still meeting site requirements; entrances are proposed as far as possible from private property. The application as proposed would meet all County requirements, he said. He added that the applicants met last year with neighboring citizens.

**Mr. Romine** said he understood the County was interested in the economic impact of the proposed use and figured the total tax generation would be \$189,000 per year, based on current tax rates, with a four-year \$4 million positive impact.

**Mr. Romine** addressed Mr. Hamilton's question by stating there is no intention to close any existing 7-Elevens in the areas near the site.

**Mr. Romine** requested permission for a small Citgo logo on the gas pump canopy, and also to reduce the transitional buffer proposed in Condition No. 10 from 35 feet to 20 feet.

**Mr. Bill Cashman**, URS Corporation, 5540 Falmouth Road, Richmond, VA, stated that he is a traffic engineer retained by the applicant. He noted the current level of service at Big Bethel Road and Hampton Highway would remain at "D" even with the addition of the proposed 7-Eleven convenience store. He noted the ITE Journal had conducted a study and published its results, which concluded that 70% of traffic patronizing a convenience was already on the roads and only 24% more traffic was generated by the existence of the store. He said other possible uses of the site would generate more net traffic than a convenience store. Mr. Cashman said accident records from 2003 through 2005 indicated 45 reported accidents in the vicinity, only 7% of which were on, near or passing the proposed site. He therefore did not believe the proposed 7-Eleven would exacerbate existing traffic problems.

**Mr. Ulysses S. Robinson**, 2105 Hampton Highway, believed it would be a travesty to approve the application. Additional traffic would come from Tabb High School, he believed, adding more traffic to the surrounding roads. He was concerned with increased crime, downgrading the neighborhood, and the presence of a 7-Eleven and a Food Lion nearby that could provide duplicate or similar services. He said that he and his neighbors like the neighborhood the way it is. He recommended denial.

**Mr. Abel** asked for an estimate of how many trips per day would be added to traffic in the vicinity. **Mr. Cashman** said the gross number of vehicle trips added to adjacent roadways during peak periods would be estimated at 300 per hour, with an estimated 2,300 trips throughout the day.

Discussion followed about past accidents in the vicinity and where they occurred, and the market captured by the proposed 7-Eleven as well as the 7-Eleven on Hampton Highway.

**Mr. Barba** asked Mr. Romine if 7-Eleven, Inc. was amenable to agreeing *not* to close the Hampton Highway 7-Eleven for a specific period of time. **Mr. Romine** replied there is no plan at present to close it but he did not think that could be guaranteed without Board of Directors' approval. However, the 7-Eleven in question has operated for a number of years, he pointed out, and it is very unusual for the corporation to close a store.

**Mr. Barba** mentioned a 7-Eleven on Route 17 that was closed and **Mr. Romine** explained that some of the older stores were franchised operations; he was not aware of the specifics of that particular closing, but he could look into it.

**Ms. O'Connor** asked about crime statistics for the area. **Mr. Romine** did not have data with him to specifically respond to her question, but pointed out that 7-Eleven is "the leader in the industry of convenience gas" related to safety, no more than \$50 is available to employees at any time, and the stores are well-lit and equipped with cameras. The stores maintain strict rules on loitering and encourage the visibility of law enforcement personnel, enjoying a reputation as "police friendly."

**Ms. Connor** mentioned traffic accidents at the intersection of Hampton Highway and Big Bethel Road. **Mr. Romine** noted that VDOT has raised concerns about the safety of that particular intersection. The site in question is zoned GB and because the applicant was unable to get the adjacent property owner to agree to a shared access, he knew it was not an ideal situation. However, an owner of the property has the right for an entrance off Hampton Highway to serve a commercial use and the applicant is offering to provide the highest degree of safety and aesthetics that it can, he added.

**Mr. Hamilton** asked if the intent is to operate the store 24 hours per day, if there would be outside public telephones, and if the applicant would tend to trash removal from the property. **Mr. Romine** said the store is intended to stay open 24 hours per day; there would be no phones outside; and a screened island would contain the trash receptacles; staff would monitor and pick up trash on and around the perimeter of the site throughout the day.

**Mr. Davis** inquired if the applicant had offered to buy land to the west of the proposed site for a shared entranceway. **Mr. Romine** said he did not know if the parcel to the west was available, but the cost of adding an additional parcel would render the plan economically unfeasible.

**Chair Ptasznik** closed the public hearing.

**Mr. Abel** appreciated the efforts of the applicants and applauded their efforts to buffer the neighborhood. High traffic volume and safety were of concern to him. He did not believe it to be the best and safest use of the property and, in fact, could create a traffic nightmare for the neighborhood.

**Mr. Hamilton** said the Comprehensive Plan did not support a 24-hour-a-day retail operation in that location, and for that reason and because of safety concerns he could not support approval.

**Mr. Davis** said it appeared the applicant had planned very well for the unusual site. He was inclined not to support it at the current time but would support reconsideration if the applicant were to obtain more land to west to adapt to traffic.

**Mr. Ptasznik** voiced a particular concern about a left-turn lane at an intersection. The lot would not accommodate the required buffers and green space nor would it lend itself well to this project, in his opinion. He also backed Mr. Hamilton's objection that the proposed use is not supportive of the Comprehensive Plan.

**Mr. Barba** moved adoption of Resolution No. PC06-3. It failed unanimously, 0-7.

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**Application No. UP-687-05, Ralph L. English, Sr.:** Request for a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 19), to authorize an automobile junkyard on approximately 12.49 acres of land located at 2321 Wolf Trap Road (Route 630) approximately 570' north of the intersection of Wolf Trap Road and Goodwin Neck Road (Route 173) and further described as Assessor's Parcel Nos. 24-259 and 24-258. The property is zoned IG (General Industrial) and is designated General Industrial in the Comprehensive Plan.

**Timothy C. Cross, AICP**, Principal Planner, presented a summary of the staff reported dated March 30, 2006, in which the staff recommended approval.

**Mr. Barba** inquired what effects the proposed deed restriction would have. **Mr. Cross** explained that the deed restriction would require the applicant, within six months of obtaining a Certificate of Occupancy for the new site, to remove all vehicles from the Route 17 location and discontinue junkyard use at that site. It is anticipated the present site would be cleaned up during that six-month period, he added.

**Mr. Barba** asked about the future use envisioned for the Route 17 property and **Mr. Cross** said the applicant could address the question.

**Mr. Hamilton** wondered what environmental impact the petroleum, oils and lubricants could have on the present site. **Mr. Cross** noted the County Code requires that all automobiles be drained of fluids before being placed at an auto junkyard and requires the owner to submit a hazardous waste management plan for any automobile-related use. There are other requirements, according to Mr. Cross, related to natural resources and impact on wetlands.

**Mr. Hamilton** inquired about noise abatement requirements, and **Mr. Cross** explained the County Code's noise ordinance covers the entire County and added that he did not know that a junkyard operation generated a lot of noise.

**Mr. Staton** asked if any study was done to determine the presence of hazardous wastes on the site and if there was a timetable for turning it over to some other use.

**Mr. Ptasznik** recommended revising proposed Condition No. 4, requiring a 6-foot wooden privacy fence, to require an 8-foot fence.

**Ms. Conner** expressed concern about possible impact on traffic while transporting so many vehicles over a six-month period, particularly the impact on Goodwin Neck Road. **Mr. Cross** suggested the applicant was better able to address her concerns.

Responding to a question by **Mr. Ptasznik** about when the move might occur, if approved, **Mr. Cross** explained that the applicant would have obtained site plan approval and recorded the deed restriction before the six-month window for the move would take effect.

**Chair Ptasznik** opened the public hearing.

**Mr. Paul W. Garman**, 109 Chisman Point Road, Seaford, represented the applicant. He noted the applicant was satisfied with the proposed conditions and would meet all conditions required by the County Code. He believed the site plan work would take a long time before it would be submitted to the County for review. There are 2,500 cars on the present site; probably only half that number will be moved and the others will be crushed and sold, he said. The applicant will do the transporting, moving two to four cars at a time on a flatbed, totaling an estimated 400 trips to the new site, Mr. Garman said.

**Mr. Barba** asked if the applicant expects to run two simultaneous operations. **Mr. Garman** noted the applicant wants to begin the move as soon as he obtains a Certificate of Occupancy from the County but he could not operate on Wolf Trap Road immediately; there will be some overlap because of staff limitations and other logistics.

**Mr. Abel** asked if car-crushing equipment is located and in use at the present site on Route 17 and if there would be the same situation on Wolf Trap Road. He said neighbors of the Wolf Trap Road site might be concerned about noise. **Mr. Garman** said it is important to note it would be a daytime activity in an industrial zone, but added that cars are not crushed until their salvage value is low. Mr. Abel asked if fulltime, permanent car-crushing equipment would be used on the new site, and **Mr. Garman** said that the car-crushing equipment is not in operation fulltime on the present site.

**Mr. Staton** asked **Mr. Garman** if the applicant had determined how to clean up his present business site. **Mr. Garman** responded that the applicant is required to clean up any material on the ground but nothing under the ground. The buyer of the property would probably be required to conduct Phase 1 and Phase 2 environmental impact studies, he added. The time it would take to clean up would depend upon what was found during those studies. He added that ground-fill cleanup is not as complicated as it was before the requirement was enacted to remove all lubricants from vehicles before placing them at the site.

**Mr. Davis** asked if Mr. English was in agreement with all of the proposed conditions. **Mr. Garman** said the applicant was agreeable to all of the conditions of the proposed resolution as well as all of the conditions of the County Code for establishing the new facility.

**Mr. Garman** added that he believed a six-foot-high fence around the storage area, as recommended by staff, would be adequate on that particular property. **Mr. Ptasznik** noted he was still concerned about the view, particularly from a second story.

**Ms. Conner** asked how long the present site has been used as an automobile storage yard.

**Mr. Ralph L. English**, 612 Wildey Road, Seaford, replied that it had been an operating junkyard for perhaps 20 or 30 years before he acquired it 37 years ago.

**Mr. Greg Horner**, 313 Hornsbyville Road, said he has lived approximately one mile from the proposed junkyard site for just over a year. He was concerned about the appearance of the proposed operation and its possible threat to the safety and scenic view of the many cyclists and motorists on Wolf Trap Road. The speed limit is 45 MPH, he said, and a vehicle waiting to turn in to the site might impede or back up traffic; he wondered if consideration had been given to installing a turning lane. He asked what kind of standard would be set for future industrial development by allowing a junkyard in the area. He mentioned the impending extension of Fort Eustis Boulevard and need to maintain a scenic buffer of trees so people could enjoy a scenic route. Mr. Horner hoped the industrial development of the site is done "in a good way...with a lot of pre-planning."

**J. M. Poitras, M.D.**, 110 Janis Drive, as an adjacent property owner was concerned about "transporting one eyesore from one neighborhood to another, in fact, my neighborhood." He stated that 28 acres of his property are wetlands and have about three streams across the property. He was not opposed to industrial development and likes junkyards, he said, but not in his neighborhood. The operation is an eyesore on Route 17 and, whether or not it "has to be," Dr. Poitras anticipated it might also become an eyesore in his neighborhood. People who live nearby as well as Seaford residents travel Wolf Trap Road, he said.

**Mr. Bobby Dean**, 3608 Seaford Road, owner of two parcels adjacent to the proposed junkyard site, was opposed to the application. He mentioned the wetlands as a consideration. He is in preliminary stages of future development of his parcels for shell buildings and commercial use, and is worried about the noise, view, and overall aesthetics resulting from the junkyard and did not want to have one nearby.

There were no others to speak, and **Mr. Ptasznik** closed the public hearing.

**Mr. Barba** expressed appreciation to the citizens who spoke of their particular concerns. The County conducts studies before final approvals, including stormwater drainage and wetlands analyses, to ensure the proposed use is suitable for the property. Mr. English has been a good citizen of York County and a local businessman for over 30 years, he observed, and Mr. Barba believed the proposed site to be a good fit for his operation. Mr. Barba expressed greater concern about the likelihood of two junkyards operating at the same time.

**Mr. Abel** pointed out the land is zoned for industrial use and the proposal is for a legal industrial use. To the extent property owners are near industrial-zoned land indicates they have made a decision to live there. On the other hand, Route 17 is the main thoroughfare for York County. The Route 17 beautification study concluded that Route 17, as the gateway to Yorktown, was in need of aesthetic improvements. While there are several automobile salvage yards on Route 17, Mr. Abel said he was pleased about the opportunity to resolve part of the Route 17 challenge by removing this business to an area that is properly zoned and is an appropriate distance from residential neighborhoods. He was in favor of the condition that another salvage yard would not be permitted on the Route 17 site. He was mindful of the neighbors, but agreed that the applicant had been a good citizen and neighbor for a long

time and should be permitted to move to what is for him an attractive alternative that fits very nicely into the County's long-range plan for this section of the County.

**Mr. Hamilton** agreed, and pointed out the vegetative and fence buffers that would be in place. He would consider requiring an eight-foot fence if the Commission agreed it would be an improvement.

**Mr. Davis** supported approval and was confident the wetlands studies would determine if the property was suitable from that perspective.

**Mr. Ptasznik** agreed with the others. He did not agree that wetlands were an issue for the Commission because appropriate studies would have to be undertaken before final approval. The use would be a good fit on the property. He pointed out other permitted uses – for which no Special Use Permit was required – included a tank farm with highly combustible petroleum and seafood processing. He supported amending the proposed resolution to increase the fence height to eight feet.

**Mr. Hamilton** moved to adopt Resolution PC06-8(R) revising Condition No. 4 to require an eight-foot-high fence. It was approved unanimously.

Resolution No. PC06-8(R)

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO  
AUTHORIZE AN AUTOMOBILE GRAVEYARD/JUNKYARD AT 2321 WOLF  
TRAP ROAD (ROUTE 630)

WHEREAS, Ralph L. English, Sr. has submitted Application No. UP-687-05 to request a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 19), to authorize an automobile graveyard/junkyard on approximately 12.49 acres of land located at 2321 Wolf Trap Road (Route 630) approximately 2,350' north of the intersection of Wolf Trap Road and Goodwin Neck Road (Route 173) and further described as Assessor's Parcel Nos. 24-259 (GPIN# R08b-4924-4060) and 24-258 (GPIN# S08a-0061-3407); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of April, 2006, that Application No. UP-687-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize an automobile graveyard/junkyard on approximately 12.49 acres of land located at 2321 Wolf Trap Road (Route 630) approximately 2,350' north of the intersection of Wolf Trap Road and Goodwin Neck Road (Route

173) and further described as Assessor's Parcel Nos. 24-259 (GPIN# R08b-4924-4060) and 24-258 (GPIN# S08a-0061-3407), subject to the following conditions:

1. This Special Use Permit shall authorize an automobile graveyard/junkyard on approximately 12.49 acres of land located at 2321 Wolf Trap Road (Route 630) approximately 2,350' north of the intersection of Wolf Trap Road and Goodwin Neck Road (Route 173) and further described as Assessor's Parcel Nos. 24-259 (GPIN# R08b-4924-4060) and 24-258 (GPIN# S08a-0061-3407).
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land clearing or development activities on the subject property.
3. Said site plan shall be in substantial conformance with the concept plan titled "Future English Motors" and dated February 6, 2006, except as modified herein.
4. A wooden privacy fence no less than eight feet (8') in height, and with the finished side facing abutting properties, shall be constructed along the perimeter of all storage areas to fully shield such areas from view from adjacent properties and Wolf Trap Road. Said fence shall be set back a minimum of twenty feet (20') from the perimeter property lines and the 20' wide strip shall be landscaped in accordance with the requirements of the Zoning Ordinance.
5. The driveway and all off-street customer and employee parking areas shall be constructed of asphalt, concrete, or any equivalent permanent dustless paving material. The entrance drive shall be so paved for a minimum distance of 100 feet beyond the paved surface of Wolf Trap Road.
6. The automobile graveyard/junkyard shall be constructed and operated in conformance with the provisions contained in Sections 24.1-475, Standards for all motor vehicle and transportation related uses, and 24.1-476, Standards for automobile graveyard, junkyard, of the York County Zoning Ordinance and Chapter 5, Automobile Graveyards and Junkyards, of the York County Code.
7. Prior to the commencement of any land disturbance or construction activity on the property, the developer shall submit a Natural Resources Inventory, including a Perennial Stream Determination, in accordance with Section 23.2-6 of the County Code. If any stream is determined to be perennial, then a 100-foot Resource Protection Area (RPA) buffer shall be maintained landward of the stream and any adjacent wetlands.
8. Prior to the issuance of a Land Disturbing Permit for an automobile graveyard/junkyard on the above-referenced property and prior to the lease, sale, or other conveyance of any of the properties listed below, the applicant shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the properties described below stipulating that:
  - a) all junkyard/automobile graveyard activities shall be discontinued and all junk shall be removed from said properties within six months following the issuance of a Certificate of Occupancy for the Wolf Trap Road facility, provided, however, that the Board of Supervisors may by resolution extend this period by up to six months upon receipt of a

written request from the applicant, said request to be processed as a minor modification of this Special Use Permit in accordance with the provisions set forth in Section 24.1-115(d)(2) of the Zoning Ordinance; and

- b) none of the below listed properties shall be used after said six-month period for the establishment, operation, or maintenance of an automobile graveyard or junkyard, absent express authorization from the York County Board of Supervisors.

The restriction shall be in the form of a restrictive covenant running with the land, enforceable by the County, and shall be approved as to form by the County Attorney. The restriction shall cover the properties listed below:

- 2312 George Washington Memorial Highway (Assessor's Parcel No. 37-36, GPIN# S03d-3958-2150)
- 2314 George Washington Memorial Highway (Assessor's Parcel No. 37-37, GPIN# S03d-4316-2302)
- 2316A George Washington Memorial Highway (Assessor's Parcel No. 37F-2-1A, GPIN# S03b-4317-2657)
- 2318 George Washington Memorial Highway (Assessor's Parcel No. 37-35, GPIN# S03d-4290-1932)

For the purposes of enforcement of this condition, operation or maintenance of an automobile graveyard or a junkyard, as defined in the York County Zoning Ordinance, on any of the above-named parcels (unless expressly authorized by the Board of Supervisors), either individually or collectively, shall be reason for the County seeking to enforce the covenant.

- 9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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**Application No. UP-699-06, Mark and Beth Saunders:** Request for a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, to authorize a 386-square foot detached accessory apartment on a 0.64-acre parcel of land located at 114 August Drive (Route 1292) approximately 725' west of its intersection with Old Seaford Road (Route 787) and further identified as Assessor's Parcel No. 25M-8-4-5. The property is zoned RR (Rural Residential) and is designated Low Density Residential in the Comprehensive Plan.

**Earl W. Anderson, AICP**, Planner, summarized the staff report dated March 24, 2006, in which the staff recommended approval.

Chair Ptasznik opened the public hearing.

**Ms. Elizabeth Saunders**, 114 August Drive, spoke in favor of her application. Her family has lived in the house for 10 years, she said, and the garage is approximately 15 years old. The requested accessory apartment would be used as an office or an occasional spare bedroom.

Seeing no others, the Chair closed the public hearing.

**Mr. Hamilton** moved to adopt proposed Resolution No. PC06-9, and it was approved unanimously.

Resolution No. PC06-9

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 114 August Drive

WHEREAS, Mark and Beth Saunders have submitted Application No. UP-699-06 to request a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on a 0.64-acre parcel of land located at 114 August Drive (Route 1292) and further identified as Assessor's Parcel No. 25M-8-4-5 (GPIN #U08b-3062-4690); and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of April, 2006, that Application No. UP-699-06 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, for a detached accessory apartment in conjunction with a single-family detached dwelling on a 0.64-acre parcel of land located at 114 August Drive (Route 1292) and further identified as Assessor's Parcel No. 25M-8-4-5 (GPIN #U08b-3062-4690) subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be contained in an existing detached structure on a 0.64-acre parcel of land located at 114 August Drive (Route 1292) and further identified as Assessor's Parcel No. 25M-8-4-5 (GPIN #U08b-3062-4690).
2. The apartment shall be contained within the existing structure located on the western side of the subject property as indicated on the sketch plan submitted by the applicant titled "Seaford

Shores, Section four, York County, Virginia” prepared by Campbell Land Surveying, Inc. dated 6/12/96 and received by the Planning Division on February 24, 2006.

3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. Habitable floor area of the accessory apartment unit shall not contain in excess of 386 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the Resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.
10. Be it further resolved that this Special Use Permit is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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**Application No. 700-06, Premier Properties USA, Inc.:** Request for a Special Use Permit, pursuant to Section 24.1-712 of the York County Zoning Ordinance, to authorize increases in sign area and height for a previously approved retail center to be located at 165 and 175 Water Country Parkway and further identified as Assessor’s Parcel Nos. 11-4-3 and 11-91. The properties are located at the southeast quadrant of the southern Humelsine Parkway (Route 199)/Interstate 64 interchange and south of Water Country Parkway (Route 640). The property is zoned EO (Economic Opportunity) and is designated Economic Opportunity in the Comprehensive Plan.

**Ms. Amy Parker**, Senior Planner, presented a summary of the staff report to the Commission, dated April 3, 2006. She noted the staff recommended denial. The Ordinance requires that a hardship exists to justify increases in sign area. Such hardship was not shown by the applicant. Draft Resolution No.

PC06-10 was included, however, should the Commission recommend approval. The resolution would approve a freestanding roadway sign with a maximum area of 150 sf, the maximum for a shopping center -- although the application was not represented to be a shopping center -- maximum height of 15 ft, maximum wall signage for Target of 340 sf, and no additional wall signage for the JC Penney store.

**Mr. Abel** asked if the applicant had identified any particular hardship that warrants an increase sign height. **Ms. Parker** stated no hardship as defined by the Zoning Ordinance was identified. **Mr. Hamilton** noted that signage height was a condition of original approval, and **Ms. Parker** noted that any applicant has the right to request "hardship relief" from normal standards.

**Chair Ptasznik** opened the public hearing.

**Ms. Emily Kaiser**, Premier Properties USA, Inc., Indianapolis, IN, spoke in favor of approval. She believed restraints brought about by a combination of the shape of the parcel, the proposed center location at the rear of the parcel, and vegetation presented obstacles to contracting with tenants. She noted that most centers of a similar type have signs along multiple public roadways and visibility from different locations. In this case, the approved signage from only one public roadway would limit visibility and is a deterrent to signing tenants. She believed it would be helpful to out-of-town shoppers, particularly, to provide identification for The Marquis beyond the signage that is approved. The anchor tenants are not satisfied with the approved sight lines, she said, and the way to open up sight lines would be to cut down a number of trees, not the applicant's preference. The applicant is maintaining a 45-foot greenbelt buffer, she said. Ms. Kaiser believed that combining tenant panels with architectural features could create features to identify the center and its tenant mix.

**Ms. Kaiser** noted the Water Country sign is 15 feet tall and, when compared to the 10-foot-tall sign permitted the applicant under the Zoning Ordinance, she did not believe a 10-foot sign would be seen by southbound traffic on Route 199 with the existing vegetation in place. Many retailers who are permitted 10-foot-tall signs, as she demonstrated with photographs, do not have the quantity of vegetation to impede them. Furthermore, she found the signs unattractive. The applicant would offer signs more aesthetically pleasing and more cohesive to setting the tone of the project and identifying their retailers, she said.

**Ms. Kaiser** displayed renderings of the applicant's proposed signs, noting the importance to a retail center to have its entrance complement the rest of the center and at this time the center elevations are undergoing change. The design of the center, she noted, was not final, but she displayed the rendering to demonstrate massing. Architectural feel and materials will be correlated into the tenant panels and the applicant is still considering different logos to tie the concept together. Knowing what they can build will affect the ultimate design. Ms. Kaiser said the applicant would work with the County and its tenants.

**Ms. Kaiser** displayed a photograph of the identification sign for Bridgewater Falls in Cincinnati, another of the applicant's shopping centers, to demonstrate how it successfully merged tenant panels with architectural features. She contrasted it with the "typical square box sign with two pan flux panels on the side."

The proposed Target and JC Penney stores would be massive buildings, and Ms. Kaiser understood that bringing additional area to wall signage creates clutter and the concern the County had expressed

about that. She believed the elevations shown to the Commission did not indicate clutter and, in fact, the signs promoted the aesthetic of the building by adding a layering effect and breaking up the monotony that can result from long masses of wall. It defined the entrances for the two retailers without the addition of signs above their entrances, which she believed to be an important element for the County. Ms. Kaiser offered to reduce signage area by eliminating the sign on the east elevation, if required.

**Ms. Kaiser** concluded her presentation and offered to answer questions.

**Ms. Conner** registered her disappointment in learning that Target and JC Penney are the first two tenants signed by The Marquis, because when the original presentation was made to the Planning Commission and, presumably, the Board of Supervisors, it was represented to have retailers that were not already in Hampton Roads and a different look and ambience. She pointed out there are Target stores nearby and that JC Penney, Best Buy, Michael's and Pet Smart all are located in the Hampton Roads area. **Ms. Kaiser** explained that the sign displaying those retailers was for the Bridgewater Falls center. **Ms. Conner** acknowledged that and was concerned that the applicant, as a developer, would have relationships with national retailers and as time passes, negotiations would be undertaken – and, in fact, may be underway – with those same retailers. She did not know why a shopper would come to The Marquis when the same retailers could be found nearby. In that sense, she said, the proposed center did not appear to be a regional draw at all but would simply serve the static population to some small degree because shopping centers exist in other parts of York County and greater Williamsburg. As for aesthetics, Ms. Conner did not see any difference in the applicant's rendering of the proposed anchor store identification signs and every other Target and JC Penney sign that she had seen. It appeared, she said, that what was initially represented was significantly different than what is already offered in Hampton Roads.

**Ms. Kaiser** mentioned other national retailers with which the applicant has relationships, but could not say with whom the applicant is negotiating. She said certain aspects of developing are necessary in order to obtain financing and draw other tenants and the anchors are critical to this process. She said the applicant is currently negotiating with other possible anchor tenants. She is professionally involved with the interior architecture and assured the Commission that the aesthetics of the center would be topnotch, not unlike the initial renderings presented to the Commission and the Board. It would be given an upscale residential, southern ambience.

**Ms. Conner** stated that she did not see the necessity to bend the County Code for the standard sort of shopping center that appeared to be coming together.

**Mr. Abel** agreed that the elevations accompanying this application were an eye-opener for him for virtually the same reasons expressed by Ms. Conner. His recollection of the original application was for an attractive, downtown-feel, pedestrian-friendly environment. The current request illustrates two big-box stores situated at the edge of a parking lot with a much larger sign than anything that was contemplated in the original application. He asked Ms. Kaiser what she considered to be the "right tone" the applicant hoped to achieve by the increased sign area.

**Ms. Kaiser** said the applicant was seeking a classical, southern, upscale, residential feel. All shopping centers developed by the applicant have been modern and were accomplished with high integrity.

While the applicant has developed prairie-style and modern centers and has never undertaken a southern-style center, she was confident The Marquis would meet the same high standards.

**Mr. Abel** asked how a 40-foot sign would communicate what an upscale, southern center is supposed to feel like.

**Ms. Kaiser** believed a majority of the increase in size is due to the tenant panel needs and the importance of offering them some visibility at the entrance, along the public roadway.

**Mr. Abel** asked if visibility from the public roadway might be less of a problem for the applicant than visibility from the interstate. He suggested that drivers along Route 199 could figure out where the shopping center was without a 40-foot sign to guide them. He asked if the request for the larger sign area was unrelated to the fact that Interstate 64 runs alongside the development.

**Ms. Kaiser** did not think a 40-foot sign would be visible from I-64 because it would be set back a distance, and vegetation and medians would also diminish its visibility. She said the size has been reduced to a requested 37 feet and the applicant continues to try to reduce the height.

**Mr. Hamilton** did not see the applicant's situation as a hardship as defined by the Zoning Ordinance and he suggested **Ms. Kaiser** elaborate on the hardship the applicant is attempting to overcome.

**Ms. Kaiser** said the vegetation along the greenway belt, including 20-foot-tall trees, creates a hardship because visibility of the tenants would be reduced, potentially resulting in lost revenues to those tenants. It is important to tenants or prospective tenants to have visibility or presence at the entrance. The applicant is trying to address tenants' needs as well as its own and those of the County.

**Mr. Hamilton** suggested that publicity for the shopping center could be generated through other tourist attractions, Kings Creek, Water Country, and hotels along Route 199. He suggested the Economic Development Division might offer ideas about other opportunities to create a presence for the center. He did not see a hardship issue that could justify greater signage area.

**Mr. Barba** did not believe the proposed shopping center offered an entirely different look, as it had been represented. In fact, it appeared to be typical of what is in the area. He had thought there would be an opportunity for a retailer such as Nordstroms.

**Ms. Kaiser** said the "concrete plans" are yet to be finalized. Obviously the applicant needs to get the design approved, she said, and maintained there was need for a larger sign than 64 sf, even if not 660 sf as requested; perhaps some compromise was worthwhile. It is important that the applicant know what it will have to work with and what is going to please its retailers. All are important factors, she said.

**Mr. Davis** said he is pro-business and believed there could be a solution. He said many localities tie the area of allowed signage to the total square footage of the center. He suggested they may be permitted more signage as the project is built out. To ask for the total signage at this stage may not be the most desirable approach, in his opinion. Once the development is built and is successful, then some compromises may be reached based on the floor area occupied. Mr. Davis recalled this approach

having been used successfully in other communities and suggested that the County might be amenable to adopting a similar stance with the applicant as the development progresses.

**Ms. Kaiser** thought that was a good point. She noted that the subject parcel, if subdivided into individual commercial lots, were capable of permitting a number of 64 sf signs along Route 199. Target, for instance, owns its own land and technically would be permitted to erect a 64 sf sign.

**Mr. Abel** noted that much had been said about this being a “destination center” and recalled the last so-called destination center in which he was involved was MacArthur Center. It has no freestanding sign to announce what is there but seems to have no problem attracting people. The vast majority of stores at a destination center such as MacArthur Center have no exterior signage. You know they are there and you’re either going to be surprised after you get in or you know what is there already. He asked Ms. Kaiser to convince him of the necessity for tenant stores’ signage if it is to be a true destination center.

**Ms. Kaiser** felt it was important to realize that many destination centers and many lifestyle centers are surrounded by multiple public roadways with multiple accesses, so the anchors and the signs are visible from multiple vantage points. The applicant does not have that advantage with this site; there is one entrance and a small part of one public roadway that are inhibited by a line of 20-foot-tall trees and a 45-foot greenbelt. It does not have the luxury of multiple vantage points that a typical center of this type has, she said, so the increase in signage appears warranted to allow a tenant presence at the entrance that you may not typically have at another center.

**Ms. Conner** said, as a business person, she was pleased that Premier Properties selected York County and believed it would be a good partnership. Her disappointment, she said, was in the fact that what she thought the center would be apparently is not what it will be. She did not think the center needed a larger sign to promote the same retailers that could be found at any other center.

**Mr. Kevin McBurnette**, 119 Low Ridge Road, Williamsburg, represented Penniman East Homeowners Association. The Association’s primary concern was with development within the area, he said, and he had no comments on this application.

**Chair Ptasznik**, hearing no others, closed the public hearing.

**Mr. Abel** said he was strongly opposed. He understood the applicant’s desire to set the right tone and to be visible for good business reasons. Mr. Abel’s concern was not only that the application does not satisfy the requirements for exceeding by an enormous degree the standards established for signage, but a 40-foot-tall sign evoked for him visions of the Las Vegas strip and he did not believe that was the image the County or the applicant wanted to project. Mr. Abel said it had been a stretch for him to accept 800,000 sf of retail in this particular parcel of land, but to place a sign of such a large scale would be stepping further away from where he thought we were heading. He believed it was time to turn back in the direction the Commission envisioned when it voted in favor of the application.

**Mr. Ptasznik** mentioned that a similar-type of shopping center in Virginia, Short Pump, is not visible from the highway in the daytime, yet people do find it. Just as shoppers find other large retailers, such as Lowe’s, Home Depot, or a car dealership, they can find major shopping centers without an enormous sign. In his opinion, the application involves too many issues to address: a 1000 percent

increase in signage, signs on the walls, signs at the entrance, greenbelt issues, etc. He thought the request should be revised and suggested the applicant consider withdrawing the application in its present form and returning to the Planning Commission with a different proposal.

**Mr. Hamilton** moved adoption of proposed Resolution PC06-10. It was denied 0:7 by roll call vote.

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## **NEW BUSINESS**

There was no new business.

## **OLD BUSINESS**

There was no old business.

## **RECESS**

Chair Ptasznik called a brief recess at 9:44 PM.

## **RECONVENE**

The meeting was reconvened by order of the Chair at 9:48 PM.

## **SPECIAL PRESENTATION**

Mr. Terry Hall, Manager, Emergency Communications, Department of Fire & Life Safety, presented an overview of "Local and Regional Emergency Communications." Chair Ptasznik thanked Mr. Hall for an informative and interesting presentation.

## **STAFF REPORTS**

Mr. Mark Carter referred to the Development Activity Report dated April 12, 2006 and offered to answer questions.

Mr. Carter announced the Planning Division would move on April 21st to the Administration Center, 224 Ballard Street.

Mr. Carter distributed a memorandum dated April 11, 2006, "Zoning Ordinance Review – Accessory Apartments" for perusal and offered to answer any questions the members may have, or provide additional information on the subject.

## **COMMITTEE REPORTS**

It was reported that the Mixed Use Development Committee would hold several more meetings before its assignment is completed.

## **COMMISSION REPORTS AND REQUESTS**

There were no reports or requests.

## **FUTURE BUSINESS**

Mr. Carter advised that the applications heard tonight would go to the Board of Supervisors for public hearing on May 16.

## **ADJOURN**

The meeting was adjourned at 10:15 p.m.

**SUBMITTED:**

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Phyllis P. Liscum, Secretary

**APPROVED:**

\_\_\_\_\_  
Alfred E. Ptasznik, Jr., Chair

**DATE:** \_\_\_\_\_